

Order

Michigan Supreme Court
Lansing, Michigan

December 21, 2010

Marilyn Kelly,
Chief Justice

ADM File No. 2008-28

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

Proposed Amendment
of Rule 6.005 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.005 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt/Resources/Administrative/ph.htm.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 6.005 Right to Assistance of Lawyer; Advice; Appointment for Indigents;
Waiver; Joint Representation; Grand Jury Proceedings

(A)-(G)[Unchanged.]

(H) Scope of Trial Lawyer's Responsibilities. The responsibilities of the trial lawyer appointed to represent the defendant include

- (1) representing the defendant in all trial court proceedings through initial sentencing,
- (2) filing of interlocutory appeals the lawyer deems appropriate, and
- (3) responding to any preconviction appeals by the prosecutor; The defendant's lawyer must either:

- (i) file a substantive brief in response to a prosecutor's interlocutory application for leave to appeal, or
- (ii) notify the Court of Appeals that the lawyer will not be filing a brief in response to the application. and
- (4) Unless~~unless~~ an appellate lawyer has been appointed, the trial lawyer appointed to represent the defendant is responsible for filing of postconviction motions the lawyer deems appropriate, including motions for new trial, for a directed verdict of acquittal, to withdraw plea, or for resentencing.

(I) [Unchanged.]

Staff Comment: The proposed amendment would revise MCR 6.005(H) to clarify that appointed defense counsel in a criminal proceeding either must file a substantive response to a prosecutor's application for interlocutory appeal or notify the Court of Appeals that the lawyer intends not to submit a pleading.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by April 1, 2011, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2008-28. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 21, 2010

Corbin R. Davis
Clerk